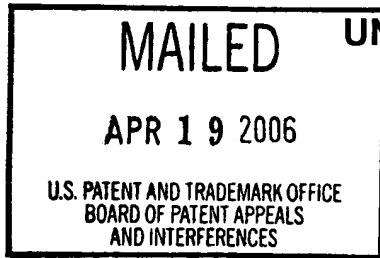


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.



UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte PIERRE H.G. KOBLEN; ROGER P.M. RINKENS; HERMAN R.L. VAN HEUMEN

Appeal No. 2006-0541
Application No. 10/087,613

ON BRIEF

Before FRANKFORT, MCQUADE, and CRAWFORD, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 14 to 21, which are all of the claims pending in this application. Claims 1 to 13 and 22 to 36 have been cancelled.

The appellants' invention relates to a cushioning conversion machine for producing a dunnage product from sheet-like stock material (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The prior art

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Steffens et al. (Steffens)	4,032,133	Jun. 28, 1977
Kempster et al. (Kempster)	5,873,809	Feb. 23, 1999

The rejection

Claims 14 to 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kempster in view of Steffens.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's rejection (mailed February 26, 2004) and the examiner's answer (mailed April 7, 2004 / September 13, 2005) for the examiner's complete reasoning in support of the rejections, and to the supplemental brief (filed March 15, 2004) and reply brief (filed June 10, 2004) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected the claims under 35 U.S.C. § 103. We note that the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

The appellants' invention is a cushioning conversion machine which includes, as depicted in figures 8 and 9, a first feed member 140 and a second feed member 142. The second feed member 142 is mounted to a carrier 160 which pivots between an operative position depicted in Figure 8 and an inoperative position as depicted in Figure 9. A biasing member 170 exerts a biasing force against the carrier 160 when the carrier 160 is in its operative position.

The examiner is of the opinion that Kemptster describes the invention as claimed (see page 3 of answer) except that Kempster does not describe how the biased members 24 are mounted. The examiner relies on Steffens for teaching rotating feed members 34, 48 in pivotal carriers 94, 96 mounted on pivots, biased by biasing members/springs 80. The examiner finds also that the releasable locking device 90 resiliently holds the feed members/rollers 34, 48 in position in a locked position and when released/unlocked, it allows for pivoting away in case of a paper jam. The examiner concludes:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the rotating members as taught by

Steffens in the invention of Kempster et al. in order to provide biasing towards one another [answer at page 3].

Appellants argue that Steffens does not describe that the rocker arms 94, 96, 98, and 100 are movable between an operative and inoperative position, as required by claim 14. We agree.

Steffens describes and depicts in Figures 1 and 2, that rocker arms 94, 96, 98 and 100 allow the rollers 34, 40, 46 and 48 to moved translationally parallel to the plates 24, 36, 42 and 44 respectively. Steffens teaches that this translational movement of the rollers 34, 40, 46 and 48 allows these rollers to be displaced in these translational directions to avoid a paper jam when a thicker paper is utilized without interference from the leading edges of the fold plates 24, 36, 42 and 44 (col. 4, lines 15 to 27). As depicted in Figure 2, each roller has a:

. . . roller positioning apparatus. The head **84** on the adjusting screw **72** limits the travel of clockwise rotation of the rocker arm **94**, while resilient sleeve **80** acts to restrict the counterclockwise rotation of the rocker arm **94** with a force equal to the preload set up in the sleeve by the locking collar **90** [col. 4, lines 9 to 14].

As such, the collar 90 is utilized to adjust the magnitude of bias of the resilient sleeve 80. Steffens does not disclose that collar 90 may be adjusted to move the rocker arms between an operative and an inoperative position. The pivoting of the rocker arms is between two operative positions so as to avoid a paper jam when thicker paper is used. Even if the rocker arms were adjusted to the maximum extent, such would not

As Steffens does not describe a releasable locking device having one position which holds a carrier in an operative position and in a second position which allows the carrier to be pivoted to an inoperative position, we will not sustain this rejection as it is directed to claim 14 and claims 15 to 21 dependent thereon.

To summarize, the decision of the examiner to reject claims 14 to 21 under 35 U.S.C. § 103 is reversed.

MURRIEL E. CRAWFORD
Administrative Patent Judge

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